

REMARKS

Claims 1-23 were examined in the application. Of these, claims 1, 7, 8, 16, 17, 19, 20, 21, and 23 were rejected as being anticipated by U.S. Patent No. 7,203,507 (Smith). The remaining claims 2-6, 9-15, 18 and 22 were rejected as being obvious in light of a combination of Smith with material of which the examiner has taken official notice.

The applicant respectfully traverses these rejections.

Under 37 C.F.R. § 1.104(c)(2), an Office Action is required to make clear the pertinence of any reference relied on in rejecting a claim:

In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command, When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.

The Office Action purports to reject all six independent claims in the application with a single sentence:

As per claims 1, 7, 8, 16, 17, 19, 20, 21, and 23, Smith et al. disclose receiving a session request....., in response to receiving the session request (see at least the abstract and col. 3, line 55 to col. 4, line 12).

Office Action, page 2 (ellipses in original). This rejection is not believed to satisfy the requirements of Rule 104(c)(2) or of 35 U.S.C. § 132(a) (“[T]he Director shall notify the applicant [of the rejection], stating the reasons for such rejection.”).¹

As to the rejections made in view of Smith, the Office Action does, at least, allege that Smith teaches the use of a “session request,” a term that appears in the pending

¹ Consequently, the applicant believes that the Office Action is not a “notification” under 35 U.S.C. § 154(b)(1)(A)(i) for the purposes of patent term adjustment.

claims. The applicant respectfully contends that this allegation is incorrect. Throughout its disclosure, Smith describes the use of short message service (SMS) messages. SMS, however, is widely understood to be a *sessionless* protocol. *See, e.g.*, U.S. Pat. App. No. 2004/0058694, ¶ 0015 (“SMS-based interactions between GSM devices and a host server take place in a sessionless format...”); U.S. Pat. App. No. 2006/0058048, ¶ 0011 (“SMS messages, by nature are typeless, stateless, sessionless....”); U.S. Pat. App. No. 2007/0100710, ¶ 0013 (referring to “sessionless communications technologies such as SMS”). Smith did not disclose any departure from the sessionless nature of SMS communications: the word “session” does not even appear in the Smith patent.

Because the Smith patent does not teach any use of sessions, claims 1, 7, 8, 16, 17, 19, 20, 21, and 23 are not believed to be anticipated by Smith, and reconsideration and withdrawal of the rejections is requested.

Claims 2-6, 9-15, 18 and 22 were rejected as being obvious in light of a combination of Smith with material of which the examiner has taken official notice. The applicant respectfully traverses these rejections, as the Office Action identifies neither the facts of which official notice is being taken nor any reasoning in support of any such facts. *See* MPEP § 2144.03(B) (entitled “If Official Notice Is Taken of a Fact, Unsupported by Documentary Evidence, the Technical Line of Reasoning Underlying a Decision to Take Such Notice Must Be Clear and Unmistakable.”)

Because no factual basis has been given for the rejection of claims 2-6, 9-15, 18 and 22, and further because those claims depend from allowable independent claims, the applicant requests reconsideration and withdrawal of the rejections.

The applicant believes that the claims are in a condition for allowance. If the examiner has any questions regarding the application, the Applicant's representative may be contacted at 312-913-2115.

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